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CERTAINE OBSERVATIONS UPON THE TRYALL Of Leut. Col, JOHN LILBURNE.

IN Page 154. after an Appendix annexed by the Publisher, read thus.

Judicious Reader, It appears in the first impression of Mr. Lilburnes Tryall, that in the Appendix the Penman professeth, he hath been very indifferent in transcribing his notes, without maliciously wronging either the Court or the Prisoner; yet if anything be amisse, he hopes the second Edition may mend it, if more exacter Copies then his can be got; desiring that some man that understands the Law, will take some pains to write some Observations in Law upon it, and truly being at that Tryall, I have done something in the particulars desired, and here must adde a little more (leaving the absolute compleating of it to abler pens and heads) in case Mr. Lilburn had been found guilty by the Jury as to matter of fact; and thereupon they had delivered up to the Judges a speciall Verdict; this or the like at the Barre, might have been a good Plea for him, after the Court had asked him what he would say for himself, why ~~the~~ ^{the} Jury could not have past upon him, he might have answere.

1. That Sheriff ~~Wilson~~ ^{was} a Member of the Parliament and Councell of State, and then ~~was~~ ⁱⁿ a party, in which regard the return of his Grand-Jury by him or his dependant Officers is null and void in Law, and so by consequence is also their Verdict.

ugh Justices of Gaole-Delivery, and Justices of the
reforme and amend in open Sessions the Pannell re-
inquire for the King by the Statute of the 3. Hen. 8.

2. yet this was a private or speciall Court of *Oyer and
miner*, not an ordinary and open Sessions; and therefore
to put by Capt. Sweeting that was summoned by the Sheriffe,
and in his stead put in *Thomas Smith* who was not legally sum-
moned, but accidentally taken up in the Hall, is expressly against
the Statute of the 11. Hen. 4. Chap. 9. and the Indictment
thereby, is null and void to all intents and purposes, as clearly
appeares by the Statute it self.

3. He ought to enquire whether any one of the Jury be out-
lawed, and if any one of them were; it totally nullis and makes
void the Indictment and all things depending upon, as is clear
by 13. Hen. 4. Chap. 9.

4. He might alledge, that he conceived the Indictment was
insufficient in Law, and that he never heard nor saw it, it be-
ing in *Lattine*, and whether that he heard read to him in *Eng-
lish* be rightly translated he knowes not, for that he knowes
the *Lattine* tongue cannot be rendered word for word in *Eng-
lish*; and therefore in Arrest or stop of Judgement he might
presse, that Councell learned in the Law might be assigned him,
and a Copy of the Indictment given them to peruse; for that
first there doth to him further appeare these errors in the In-
dictment.

1. That he was Indicted in *London*, for pretended crimes
done in *Surrey* and *Middlesex*; and therefore the Tryall or *Jur-
ry* not coming out of the right place, the Indictment is void in
Law. *See Arundels Case.*

2. He might alledge, that he was Indicted upon a mistaken
Statute, which bears date after the pretended facts, and there-
fore void in Law.

3. He might alledge, that the offence in the Indict-
ment, is not certainly alledged as to matter, time, and place,
and that he had not a right addition or title, all which in Law
ought to be.

4. Alledge that the Statute whereupon the Indictment of
treason is grounded, is insufficient in Law to ground a Judge-
ment upon, for that it saith, that whosoever doth such an act
shall suffer the paines of death, &c. as in case of High Treason.

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hath been used, now the paines of death were not made in the
ses of treason at the making of that act, nor for divers years
before, read the margin before in page 91.

5. Alledge that in the Indictment it is not alledged against
whom this Treason is committed, onely against the Govern-
ment (and there may be severall sorts of Governments) or the
Keepers of the Liberties of *England*, but who they are, or
where they are to be found, is not named, and it is im-
possible he can owe Allegiance to those unknown *individua
vaga*, and where there is no Allegiance due, there no Treason
can be committed in Law; for no man can owe Allegiance
to an unknown man, or unknown number of men, or to an
Utopian Common-wealth.

6. He might alledge, that there was not two plain and evident
Testimonies to each of those facts, upon which the Grand In-
quest found the Bill, and therefore their Verdict is void in
Law.

7. He might alledge, the Inquest in Law could not return
billa vera, a true Bill, unless they had found all the parts of the
Bill to be true; which they never did, nor possibly could do,
in regard there was not one amongst all the Grand Inquest,
that could exactly read and *English*, or understand the Bill: so
there was errors enough in the finding of it.

8. He might alledge that in the body of the Indictment it
is said, fight no more for the men in present Power (and the
next words saith) meaning the present Government; this can-
not be good in Law, for that men are Governours and not
Government; neither doth he name the men in present pow-
er, and there are severall kinds of Powers; yea, the Army
as properly as the Parliament may be called present Power.

9. He might alledge, that Treason signifies a breach of
Trust, and comes from *Trahic*, which is treacherously to betray,
now his trust, which was his liberty, his freedom and his pro-
tection by the Law, was by his imprisonment (in March last
for treason) taken off or taken away from him; and therefore
having then no trust upon him (as in his imprisonment he had
none) he could not in that condition commit Treason, but all
the things laid unto his charge by Mr. *Prideaux* the Attorney
Generall in the Indictment, are facts done, or pretended to be
done after his commitment to prison for Treason; which facts

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or actions are all void in Law, and cannot in the least in the eye of the Law, come within the compasse of Treason, which is treacherously to betray, which cannot be done where there is no trust; but in Mr. *Lilburnes* imprisonment there was no trust upon him, and therefore in that condition he could commit no Treason, and the highest aggravation of the Attourney Generalls ignorance and malice it was, in that he in his Prosecution of Mr. *Lilburne* evads, or passeth by all those things pretended to be done by him, for which Mr. *Lilburne* was first committed; yea, and sends for him about seven or eight Moneths after his first imprisonment, to come to him in order to his Tryall for Treason, and then friendly in shew discourses with him; and afterwards at his Arraignment for his life, brings that discourse or some part of it, as the principall Facts of Treason, or evidence for Treason that he had against him; therefore can there be greater ignorance in any man that professeth the knowledge and understanding of the Law, thus to do, or greater malice in the most malicioust of men then in this (empty Tub) *I rideaux*.

Now for the more clearer confirmation of my foregoing observations, or the most of them, I shall desire the Reader to cast his eye upon the third part of *Cookes Institutes*, Chapters high Treason & petty Treason (which book is published by the house of Commons this Parliament for good Law) but I shall speciall recommend to the Reader as his speciall guide, in case he come into Mr. *Lilburnes* Straits, his Chapter of Counsell learned in Pleas of the Crown, follio 137. where he speaks expressly thus.

Where any person is Indicted of Treason or Fellony, and Pleadeth to the Treason or Fellony, not Guilty; which goeth to the Fact best known to the Party. It is holden that the Party in that Case shall have no Counsell to give in evidence or alleadge any matter for him: but for as much as *Ex facto Jus Oritur*, it is necessary to be explained,

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what matters upon his Arraignment, or after not Guilty Pleaded, he may alledge for his Defence, and pray Counsell Learned in the Law, to utter the same in forme of Law.

And first, upon the Arraignment what advantage he may take, in case of High Treason by the Common Law; if it be for compassing the death of the KING, he may alledge, that in the Indictment there is no such overt act set down in particular, as is sufficient in Law, or the like. For it is to be observed, that in no case the party Arraigned of Treason or Fellony, can pray Counsell learned generally, but must shew some cause.

Secondly, In case of High Treason by force of any Statute, he may alledge, that the Indictment being grounded upon a Statute; the Statute is either mistaken or not pursued.

Thirdly, Of what matters he may take advantage equally concerning them both. He may alledge, that there was not at the time of the Indictment of High Treason, two lawfull Accusers, that is two lawfull Witnesses.

Fourthly, Of what matters he may generally take advantage in all cases of Treason and Fellony. He may alledge, that the offence is not certainly alleadged in respect of the matter, time, and place, or that he is not rightly named, or have not a right addition, or that the offences were done before the last generall pardon.

Fifthly, After he hath Pleaded Not Guilty, what advantage he may take upon the evidence. He may alledge, that he ought to have two lawfull Witnesses in case of High Treason, to prove the fact against him.

Sixthly, He may take advantage in Arrest of Judgements, if the verdict be found against him; That the triall came not out of the right place, as it fell out in *Arundel's case*, convicted by a Jury of wilfull murder; he informed the Court, that the Jury that tried him came out of a wrong place, and thereupon he had counsell learned assigned him; who indeed found, that the *Venire facias* was mis-awarded, and the Court thereof by the Councell being informed, judgement was stayed. And that the prisoner may alledge these or the like matters, it is evident; because for every matter in law arising upon the fact, the prisoner shall have Councell learned assigned him. Also it is lawfull for any man that is in Court, to informe the Court of any of these matters, lest the Court should erre, and the prisoner unjustly for his life proceeded with. And the reason wherefore regularly, in case of treason and felony, when the party pleads not guilty, he was to have no councell, was for two causes. First, for that in case of life, the evidence to convict him should be so manifest, as it could not be contradicted. Secondly, the Court ought to see that the Indictment, Triall, and other proceedings, be good, and sufficient in law, otherwise they should by their erronious judgement attaint the prisoner unjustly. So far *Sir Edward Cook*.

But now if any should say, all this availes nothing, in case the Parliament takes away Juries, and sets up Arbitrary high Court of *Justice*, as already in their Act for the Earle of *Bedfords* drayning of the Isle of *Ely*, and they have done.

To which I answer, It's true, it availes nothing, indeed if they so do, but it is impossible they should; my reasons are first, because it is the most equallest and justest way of triall in it selfe, simple considered, that is, in the whole World, and hath been of so long continuance in this Nation, that all the changes of turning the Nation upside down, could never alter it, either by the Conquest of the *Romans*, *Saxons*, *Danes*, or the late *Normans*: and though since *William the Conqueror's* time, some Piinees, and their Fathers have attempted the Alteration, and overthrow of that just way of triall, by twelve men as the Neighbour-hood, yet it hath proved very fatall & destructive to those that were busied init, witnes *Empson*, *Dudley's* losing their heads, as *Traitours*, therefore although they had an Act of Parliament, viz. *H.7. chap. 3.* to bear them

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them out in what they so did, and therefore it is un-imaginable, in meer policy the Parliament will run the hazard of such an attempt, the which, when it is executed, the people are as absolute slaves, as possible can be, and have no probable certainty either for their lives, liberties, or estates; of which case Sir Edward Cook in his exposition of the twenty ninth chapter of *Magna Charta*, in his second part Institutes from 51. thus saith upon the words, *by the Law of the Land*, that is to say, saith he, *by the Law of England*; and hereupon all Commissions are grounded, wherein is this clause, To do what is just according to the Law and Custome of *England*, and it is not said, the Law and Custome of the King of *England*, lest it might be thought to bind the King onely; nor the People of *England*, lest it might be thought to bind them onely; but that the Law might extend to all, it is said, *by the Law of the Land*, that is to say, *England*. And a little below he expressly saith, against this ancient and fundamentall Law, and in the face thereof, I finde an Act of Parliament made (viz. 11. H.7. chap. 3.) that as well Justices of Assize, as Justices of Peace (without any finding or presentment, by the verdict of twelve men) upon a bare information for the King, before them made, should have full power, and authority, by their discretions to hear, and determine all offences, and contempes committed, or done by any person, or persons, against the former ordinance, and effect, of any Statute made, and not repealed, &c: by colour of which Act, shaking this fundamentall Law, it is not credible what horrible oppressions, and extactions, to the undoing of infinite numbers of people, were committed by Sir Richard Empson, and Edmund Dudley, being Justices of Peace, throughout *England*. And upon this unjust and injurious Act (mark that well,) (as commonly in like cases it falleth out) a new office was erected, and they made Masters of the Kings forfeiters.

But at the Parliament holden in the first year of Hen. 8. This Act of 11. Hen. 7. is recited, and made void, and repealed; and the reason thereof is yielded, for that by force of the said Act, it was manifestly known, that many sinister, and crafty, feigned, and forged informations, had been pursued against divers of the Kings Subjects, to their great damage, and wrongfull vexation: and the ill successe hereof, and the

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ffearfull ends of these two oppressours, should deter others from committing the like, and should admonish Parliaments, that instead of this ordinary and pretious triall, by the Law of the Land, they bring not in absolute and partiall trialls by discretion; whose Indictment for high Treason you may read in his third part Institutes *Fol. 208.* and fourth part. *Fol. 193, 199.*

And in the fourth part of his Institutes *Fol. 37. Chapteer*, high Court of Parliament, speaking of the manner of some proceedings of Parliament, in some cases of Attainder, let forgetfulness take it away if it can, if not, however, let it be buried in silence, for the more high and absolute the Jurisdiction of the Court is, the more just and honourable it ought to be in the proceeding, and to give example of justice to inferiour Courts.

And in *Fol. 39. 40. ibid.* he further saith, and where by order of Law, a man cannot be attainted of high Treason, unlesse the offence be in Law high Treason by Authority of Parliament, (as sometime hath been used) but the high Treason ought to be specially expressed, seeing that the Court of Parliament is the highest and most honourable Court of Justice, and ought (as hath been said) to give example to inferiour Courts.

There was an Act of Parliament (saith he) in the eleventh year of King *Henry the seventh*, which had a fair flattering preamble, pretending to avoid divers mischiefs, which were. First, To the high displeasure of Almighty God. Secondly, The great let of the Common Law. And thirdly, The great let of the wealth of this Land, as hereafter (he saith) shall manifestly appear; which Act he there at large recites, after which in *Fol. 41.* he further thus saith.

By Pretext of this Law Empson and Dudley did committ upon the Subject unsufferable pressures and oppressions, and therefore this Statute was justly soon after the decease of Henry the seventh, repealed at the next Parliament, after his decease, by the Statute of 1. Hen. 8. Chap. 6.

A good Caveat (saith he) to Parliaments to leave all causes to be measured by the golden and straight met-wand of the Law, and not to the uncertain and crooked Cord of discretion; for, it is not almost credible to fore-see, when any maxime,

or fundamentall Law of this Realm is altered (as else-where hath been observed) what dangerous inconveniences do follow, which most expressly appeareth by this most unjust and strange ~~Act~~ of 11. Hen. 7. For hereby not onely *Empson* and *Dudley* themselves, but such Justices of Peace (corrupt men) as they caused to be authorized, committed most grievous and heavy oppressions, and exactions, grinding of the face of the poore Subjects by penall Lawes (be they never so absolute or unfit for the time) by information onely without any presentment or triall by Iury, being the ancient birth-right of the Subject, but to hear and determine the same by their discretion, inflicting such penalty, as the Statutes not repealed imposed. These and other like oppressions and exactions by, or by the means of *Empson* and *Dudley*, and their Instruments brought infinite Treasures to the Kings Cofers, whereof the King himselfe in the end, with great grieve and compunction repented, as in another place we have observed.

This Statute of 11. Hen. 7. (saith the Lord *Croke*) we have renred and shewed the just inconveniences thereof, to the end, that the like should never hereafter be attempted in any Court of Parliament, and that others might avoid the fearfull end of those two-time-servers, *Empson* and *Dudley*. *Quicorū vestigia insistunt, corū exitus perhorrescant.*

My second Reason why its impossible the Parliament should overthrow Tryals by Juries, is because then they should overthrow the chief declared end of all the late Warres, and of the whole stream of all the chiefest Declarations; now the main and principall end of all the Warres they pretended, was for the Peoples Liberties and Freedoms, amongst all which they reckon Tryalls by Juries one of the chiefest, as clearly in their first grand *Remonstrance*, &c. appeareth, and therefore it was that in their 7th. Article, they impeached the Earl of *Stratford* as a Traytor, for subverting the fundamentall Lawes of the Land, in giving judgement upon mens Estates, without Tryalls of Juries, yea, and they should not onely destroy their chiefest *Declarations*, but also the chiefest and best Lawes of the Land, viz. the 29. Chapter of *Magna Charta*, and that excellent Law of the *Petition of Right*, as they themselves call it in their *Declaration* of the 17. of March 1648. page 7. And if so, query whether their so doing would not be as high a breach of trust

in them as ever they charged the King with, and deserved as severe a punishment to be inflicted upon them, as ever they inflicted upon the King, for the breach of his trust.

3. They cannot overthrow Tryals by Juries, without an apparent and evident ruine and destruction to themselves and the whole Nation, by a fresh imbroyling it again in Warres, because that since they took off the Kings head, for breach of his trust, they have solemnly declared in two severall *Declarations*, *viz.* the 9. of *February*, 1648. and the 17. of *March* 1648. that they are fully resolved, and shall and will uphold, preserve and keep the fundamental Lawes of this Nation; for, and concerning the preservation of the lives, prosperities and liberties of the people, with all things incident thereunto, and particularly that excellent Law of the *Petition of Right*, which sufficiently establisheth *Juries*, which good old Lawes they call *page 23.* the badges of our freedoms which they there say, our Ancestors enjoyed long before the Conquest, and spent much of their bloud to have confirmed by the great Charter, and which have continued in all former changes, and being duly executed, are the most unjust, free, and equall of any other Lawes in the world; but if in a yeaeres time they should destroy both these *Declarations* by destroying *Juries*, the universality of the People would look upon them as the most faichlesse perfidous men that ever breathed, and watch all opportunities utterly to destroy and extirpate them, as Monsters rather then men, so soone to degenerate.

Obj. I but put the case the Prince should endeavour to set on foot a new Warre, and so put the Parliament into unavoidable necessity, may they not for terrorre then set up a high Court of Justice as well as for the tryal of the late King.

Answ. No, for these Reasons, first, because before the late Kings death, all the Lawes and process of the Lawes, run in his name, therefore it was not possible in the old forme to try him; but now the Lawes and process of the Law, run in the name of the *Common-wealth of England*, or the *Keepers of the Liberties of England*.

2. Before his death, all binding permanent Lawes in all late ages, were past by King, Lords and Commons, and treason was onely committable by the Letter of the Law against the King; but now that is changed, and the Commons become the su-

prem Authority, and so declared by their Representatives, at least by those that so judge themselves, and by two special Acts made by them, upon which Mr. Lilburn was arraigned for Treason, and printed in his Tryal, page 87. 88. 89. &c. dated the 14. of May 1649. and the 17. of June 1649. they declare it to be treason in any person that shall maliciously, or advised publish, by writing, printing, or openly declaring, that the said Government is tyrannicall, usurped, or unlawfull; or that the Commons in Parliament assembled, are not the suprem Authority of this Nation, or shall plot, contrive, or endeavour to stir up, or raise force against the present Government, or for the subversion or alteration of the same, or shall plot, contrive, or endeavour to stir up any mutiny in the Army, or shall withdraw any Souldiers or Officers from their obedience, to their superiour Officers, or from the present Government, or shall procure, invite, aide, or assist any forraigners or strangers, to invade *England* or *Ireland*, or shall adhere to any forces raised by the Enemies of the Parliament, or Common-wealth of *England*; now it is impossible any Law can be more severe than to make words treason; and therefore no necessity now can be pleaded to set up a high Court of *Justice* to try the arrantest Cavalier in the world, who can be reputed at worst, no more then a Traitor, for which the Lawes declared by themselves already provides a punishment, and a Cavalier is an *English* man, and thereby by Law ought to have the privilege of any other *English* Traitor, and little doth men know the danger of breaking down banks, or pulling up universall Landmarks, though it be in cases of highest and greatest enemies, which the people of *Athens* (as Sir *Walter Rawly* fully declares) felt sufficiently under their thirty Tyrants, who had no way to introduce their tyranny upon the people, but in the subversion of their Lawes, and Freedoms, by making examples first, upon those offenders the people most hated, but then a little space the Tyrant pleaded those presidents, and by little and little made the people use of the same force, but it is hoped that now after the full alteration of the Common-wealth, and Acts of Treason declared thereupon, if any shall dare, though authorized by Parliament, to be Judges in an High Court of *Justice*, now to take away any mans life, or estate, but shortly they shall lose their heads as Traitors; therefore as *Empson*,

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and *Dudly* did, who had an *Act of Parliament* made by King, Lords and Commons to bear them out, and yet by vertue of it never tooke away any one mans life, but onely meddled with estate ; and as for the Earl of *Bedfords* *Act* for drayning, that sets up a High Court of Justice, I am confident of it, upon examination it will be found some bribing Lawyer, Chareman, mis-informed and surprized at an house to passe it ; and therefore, I shall now conclude all according to my promise, with the Copy of Mr. *Lilburns* letters to the Speaker, of the 1. Decemb. 1649. which thus followeth.



FOR



For the Honourable, *William Lenchall*,
Esquire, Speaker to the Knights,
Citizens, and Burgesses assembled
in Parliament.

These Present.

HONOURED SIR,

Ruth and Justice, are two of the main attributes of God, with the practises of whom, he hath declared himself to be well pleased, and which he will advance and set up in his own time, maugre the malice of all that do oppose them. Sir, I know you would be thought a lover of them, and out of that consideration, I now write unto you: So it is Sir, that I am an English-man born, bred, and brought up, and I hope so to live, and so to dye; and by virtue of being an Englishman, I am entailed to all the Liberties and Freedomes, that the Lawes and good customes of England, will afford to any of her children whomsoever; and besides, the series of all my actions, from my childhood to this very day, have been constant demonstrations, that I love and honour all those her just boundaries, that distinguish meum and tuum; that supports just Magistracy, and teaches subjection her due bounds, and that most equally dispenseth justice indifferently unto all; and that I hate and abhor, all subverting and Levelling, of the just Lawes, Liberties, and Freedomes thereof, to any mans will whatsoever, never coveting, in my own private thoughts or reason, any other rule to judge or bee judged by, but that righteous one of Jesus Christ, to do as you would be done to; And because (by reason of mans corruptions) there is more difficulties, and niceties, in the Lawes of the Land of my nativity

nativity and abode; then there is in the plain, and easie to be understood law, of civill behaviour, that the wise and righteous God of heaven and earth, hath given and dispensed in the volumn of truth (viz. the Old and New Testament) to the sons of men, but especially to all those that desire to approue their hearts unto him; therefore I say in regard of the intricacie, of the Laws of England, especially in the practick part of them, I have heartily laboured in my sphere, and private condition, as much as I could, to attain unto the knowledg of so much of it, as might be a safe guide unto me, in my conversings with my neighbours, country-men, and brethren; and truly, it hath been my maxim, that amongst men, there was no safety for me, but in walking in a rationall conformity, to the dictates of the just and good old plain Laws of England; but of late many men supposed I was mistaken, and I confess I was in great hazard of bodily destruction, for doing my duty, in walking in conformity, to the clearest dictates, that either the law of Reason (which is the sovereign law of God) or the clearest and most highly priz'd Laws of this Nation, could dictate, to a conscientious, inquisitive, and ingenious soul, who holds it for the most indispensابل maxim, that ever the wise God of heaven and earth establisched amongst the sons of men; That evill must not, nor ought not, to be done by any, that good may come thereby. By the greatest good that I can do, is to be readily obedient to the pleasure, will, or command of him, that is absolutely sovereign, over both my soul and body, although my body should perish in the conformity to my duty.

Sir, I say I thought I had been safe enough, when I walked by the dictates of the best of the Laws of England, I mean the Petition of Right and others consonant to it, and I thought I had a pretty competency of knowledge, to preserve my own self; But yet at my late Trial at Guild-Hall, I found my ignorance was very great, in divers essentiall things I ought to have known for my full and clear preservation, according to the formalities or practick part of the Law; but my good God, by his speciall or miraculous over-ruling providence, [so judged by me] having graciously delivered me, out of that transcendent snare, and setting my body as well as my soul at liberty, I had immediately two things in my eye; First, whether it were better for me, and more conduced to my own peace and happinesse, to depart the nation, seeing in the first year of Englands Liberty, words and speeches are become

become Treason ; that thereby no man knowes well, how to behaue himself : Or that I shoud resolve, with all the understanding I could enjoy from God, to rubit as wisely out in the land of my nativity, as I could ? And truly Sir, as for the first, there was an impossibility upon me, at the present, in that I have now been above nine years, in pursuit from your House, for my Star-chamber reparations, in the following of which, I do with safety aver it, I have really spent almost 2000.l. and yet am not much the nearer then I was the first day I began, because that which was in part first and most justly assigned me, out of the Lord Cottrington's and Sir Francis Windbank's Estates, the two Houses gave away to the Lord Sey, and otherwayes disposed of ; and then by severall Votes and an Ordinance, fixed my reparations, totally upon the Lord Coventry's estate, which in my eye, was very just, in regard he was my chiefeſt unjust Judge, in both my Star-chamber bloody Sentences : But truly Sir, to deal ingeniously with you, I was then informed by a Member of your House, that your ſelf was then, one of the principall instruments, to get it (after my Ordinance had paſt once or twice in your House) off from my Lord Coventry, out of fear of the future danger of the president of it ; and yet I muſt confeſſe, that the ſame party, and my own knowledge, told me, you were not a little active, to get it fixed, upon ſome Delinquent's estates as the States debt, where I might be ſure (in the eye of reaſon) in a very ſhort time to haue it ; and accordingly it was fixed upon the Estates, of Sir Henry Bellingham, Sir Henry Gibbs, and Sir Thomas Bowes, lying in the County of Durham ; whose estates in Land (in good times) at rack'd Rent, amounted to about 900.l. per annum ; and Sir Henry Gibbs his Wood in Bransburth Park, which was commonly in that County accounted his, and much of it ſold by his appointment, and for his uſe, and which Wood was the principall ſecurity, that I had in my eye for my 3000. l. without which I ſhould never freely haue given my confeſſion, to haue left my Lord Coventry, and acclieſed in that ſecurity of Delinquent's Lands, and which I was enabled by your House to ſell and ſell, to make up my mony ſpeedily ; though the House of Lords were pleased to reſtrain me from felliſg any more Timber-trees, and only tyed me, to make my beſt of that which was already felled, which at my firſt journey to Durham, upon the place was told me to be worth betwixt 1000 and 2000 l. but before the ſecond time I could get down into the Country, to take poſſeſſion

cession of it, old Sir Henry Vane (one of my Star-Chamber Judges, who in Law and equity ought to be one of my repairers,) by an Order out of the Exchequer, seized upon it all, as his pretended right, so that thereby I was deprived of the greatest part of my security, that I rested upon for my 3000. l. And afterwards the Committee of Durham, sold for me as many of Sir Thomas Bowes his Coals, and Iron to Sir Arthur Haslerigge, as he paid me 400. l. for, and put me in possession of the Land, and by virtue whereof I received in rents, above 1000. l. more, so that there remained about 24 or 2500 l. behinde; and upon my last imprisonment in March last, Sir Arthur as also Coloneill George Fenwick told my father, &c. I was a Traitor, and he would seize upon my estate, and did so accordingly, and compounded with Sir Henry Bellingham, and Sir Thomas Bowes (whose estates should have paid me proportionable to my remaining security about 1600. l.) as a favourite of his said to be Mr. Cuthbert Siddenham, the Independent Minister of Newcastle, in a late Book against me, in his 8th Page tells me, for 402. l. And also stopt the rents of Sir Henry Gibbs his lands, for a whole year together, so that my all is destroyed by him, &c. For want of which, I can neither travell, nor well follow any trade, to get a bit of bread for the substance of my family.

And then Sir, in the second place; being I am thereby nolens volens compelled to live in England, I confess in reason and prudence, it is not safe for me here to abide, having so many potent and malicious adversaries as I have, without the attaining to the knowledge of all the formalities, particularities, and niceties of the practick part of the Law, that study and unwearyed industry can furnish me with, that so if ever malice lay hold of me again, I may be my own Counsellour and Lawyer, and stand in need of the help of no others, especially considering, at my late Trial at Guild-Hall, I was denied all those priviledges that are an Englishmans right, and ought to be the means of his preservation, in the day of his triall; and which priviledges of the help of Counsell, &c. was granted to the Earl of Strafford, Bishop of Canterbury, the Lord Mowatire, called the grand Jeuhe-Blanc, and Duke Marmilion; and which was granted to my self by the Cardinal Fisher at Oxford, as my right by Law, and which was granted by some of the present Judges, to Major Ralph, the last year in a most eminent manner, when he was accused of the highest Treason that

but the letter of the Law of England ever knew: And Sir, knowing my own ignorance in the Latin and French tongue, without the knowledge of which, I cannot reade the practick part of the Law of England (more is the pity and misery of the plain men of England) I repaired to the Temple to some of my acquaintance, and spoke with your self and severall other learned in the Law of England, who all unanimously told me, that neither I nor any other free Englishman, could be denied admittance into the Temple, if we desired to study the Law; upon which I went to the Butler to enter my name, and paid my entrance money, that being the instructions I received, from those that for many years have been Students of that House, and the Butler told me your Attorney-General Mr. Prideaux was the Treasurer, and I must go to him for my admittance; and to his chamber I went, and he being abroad, I acquainted Mr. Raddon his servant with my busynesse, and paid 3l. 6s. 8d. to him, who desired me in the afternoon to call, and I should have my admittance under his Masters hand, who it seems refused it, and therupon I waited upon Mr. Prideaux himself the next morning, and found him something waspish, and did at present positively deny me admittance; making thereby the quarrell personall betwixt him and me, in denying me (a free and legall man of England) liberty to study the Law of the Land of my Nativity, in the place appointed for that end, although if I transgresse it (and that through ignorance) Mr. Prideaux, in all likelihood, will be as he hath been already, the irrational malicious prosecutor of me to take away my life; Oh Sir, will not rationall and unbyassed men blush, at the knowledge of the irrationality of this malicious man, whom I could easily strip and whip to the purpose with my pen, but I have no desire to do it, if by this Epistle I can avoid it and enjoy my right: And therefore Sir, I entreat you to oblige me so far unto you, as effectuallly persuade Mr. Prideaux, not further unavoidably to necessitate me, to that which I am sure, will be neither honourable for him, nor much profitable for my self. For the Law by Gods assistance I am resolved to study; unlesse Mr. Prideaux will get an Act made, that I shall not be hanged for transgressing of it: And truly Sir, I shall further proffer this to Mr. Prideaux, that he may clearly see I have no minde to quarrell with him, unlesse he force me to it; that if he please to be an effectuall instrument, speedily to help me to my mony, which is really my propriety, now detained from me, and destroyed by

Sir Arthur Haslerigge, I will trouble Mr. Prideaux no more for my Admission at the Temple, or if he will not do that, then in regard of my acquaintance there, which I hope will much help and teach me, and the conveniency of the place in the nighnesse of it to my family, I desire he will let me for my money, peaceably enjoy a chamber, from those I can take it of, or buy it from, to study the Law in a private way, for my own content and recreation, and I will neither trouble him nor any of his Associates any more for my admission into their Society of the Temple.

And in the first place, I earnestly beseech you, to let me enjoy your utmost assistance for the procuring of my money down u on the nayl, either from Sir Arthur Haslerigge, or from the estate of the late Lord Coventry, my chiefest unjust Judge, upon whom it was once decreed and ordered to be fixed upon: And truly Sir, in pure justice, I know not so clearly elsewhere, to seek it, as from one of their two hands. Sir, I beseech you seriously ponder and consider of my condition, which truly and unfeignedly is this, I must either sit down in peace and silence, and so I and mine must unavoidably perish, for want of my mony which is my earthly all, or else I must nolens volens, be compelled to bussle again for it, though I apparently run the hazard of being hanged thereby, judging it more righteous Naboth-like to perish in the preservation of my own right, then be my own Executioner, in suffering my self to starve. Sir, for your promised speedy, and hearty assistance in these particulars, I shall be very much obliged to remain, Sir,

From my habitation at
Winchester House in
Southwark, the 1. of
Decemb. 1649.

Yours in all just wayes
heartily to serve you in-
dividually or generally,

JOHN LILBURN.

I shall make bold to wait upon you two or three dayes hence, for your answer herein.

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